

REMARKS

This responds to the Office Action dated February 23, 2006, and the references cited therewith.

Claims 1, 3, 21, 27, and 29-33 are amended, and claims 16, 24, and 28 are canceled. Claims 1-15, 17-23, 25-27, and 29-35 are now pending in this application.

§112 Rejection of the Claims

Claim 3 was rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 has been amended herein in a manner believed to overcome the rejection.

Allowable Subject Matter

Claims 10-12, 16 and 24 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant believes that the amendments contained herein overcome the objections.

§102 and §103 Rejection of the Claims

Claims 21-23 and 25-26 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hooper et al. (U.S. Patent No. 5,080,096). Claims 21-23 were rejected under 35 U.S.C. § 102(e) as being anticipated by Snell et al. (U.S. Patent No. 6,907,291). Claims 27-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Thompson (U.S. 2001/0027331). Claims 1-3, 5-6, 8, 14-15, 21-23 and 25-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hooper et al. (U.S. Patent No. 5,080,096) in view of Thompson (U.S. 2001/0027331). Claims 9 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hooper et al. (U.S. Patent No. 5,080,096) in view of Thompson (U.S. 2001/0027331) as applied to claims 1 and 2 above. Claims 1, 2, 4, 7-8, 17-23, 25-26 and 32-35 were rejected under 35 U.S.C. § 103(a)

as being unpatentable over Snell et al. (U.S. Patent No. 6,907,291) in view of Thompson (U.S. 2001/0027331). The rejections are traversed and reconsideration is respectfully requested. Claims 1, 21, 32, and 33 have been amended herein to recite methods or systems in which a data communications session between an IMD and an ED over a telemetry channel can be established which allows transmission of data from the IMD to the ED if a telemetry interlock is not released, but programming of the IMD by the ED cannot be performed unless the telemetry interlock is released. Similar limitations were formerly recited by claims 16 and 24 which have cancelled herein and which were indicated in the office action as reciting allowable subject matter. Claims 27 and 31 have been amended herein to recite methods that include limiting communications between the IMD and the ED such that a data communications session over the telemetry channel can be established which allows transmission of data from the IMD to the ED if the ED has not been authenticated to the IMD, but programming of the IMD by the ED cannot be performed unless the ED has been authenticated to the IMD. Applicant finds no teaching or suggestion in the prior art of record for the recitations of claims 27 and 31 as amended herein.

Applicant respectfully submits that independent claims 1, 21, 27, 31, 32, and 33 are patentable over the prior art of record. Dependent claims 2-15, 17-20, 22-23, 25-26, 29-30, and 34-35 add particular limitations to the patentable subject matter recited by the one of claims 1, 21, 27, 31, 32, or 33, which limitations are asserted be neither taught nor suggested by the prior art of record in that context. Additionally, applicant does not concede that the recitations of the claims before the present amendment are taught or suggested by the cited references and reserves the right to prosecute those claims in one or more subsequent continuation applications.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 23 day of May, 2006.

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